



DEPARTMENT OF STATE

Washington, D.C. 20520

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June 17, 1977

MEMORANDUM

TO : D/HA - Mr. Mark Schneider

FROM : L/HR - Charles Runyon *CR*SUBJ : Implementing 502B(a)(3) of FAA '61 with respect to arms export (FMS and commercial) to Argentina and Uruguay. *File*

Experience with the South African arms embargo and common sense tell us that it is excruciatingly difficult to work case by case with tests relating to the "nature" of an item for export such as "lethal", "humanitarian", etc.

The thing to do is to embargo all items on the munitions list or all, less some specifically excluded ahead of time, unless the applicant for license can show that the end user will not be the armed services, including the police, or any individual member thereof or any para-military organization or group or members thereof. Items specifically excluded will be on the munitions list, and thus already administratively familiar. *

- * As to how to preselect such items, I recommend reviewing the list to see if there are any which would identify us clearly with a humanitarian purpose (caring for the wounded and sick; shipwreck survivors, etc.). There are bound to be borderline cases. The point is to decide these clearly in advance, by the list.

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Department of State, A/GIS/IPS/SRP

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Flexibility should enter by making the embargo an inducement to abandon human rights violations. This should be done by permitting applicants for export to prove that the national service (Army, Navy, Air Force, Police) to receive and use the export does not engage in human rights violations. I attach an appropriate rule to this end.

cc: L/PM - Mr. Michel
D/HA - Mr. Jones
ARA-Mr. Lister
ARA/ECA - Mr. Rondon

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Human Rights: Munitions list licensing: Argentina and Uruguay. Proposed Rule

No munitions list items will be licensed for export to Argentina or Uruguay unless applications show (A) that the end user will not be the armed services, including the police, or any individual members thereof or any para-military organization or group or member thereof or (B) that if the end user is a principal armed service, that service

(1) does not have the authority under Argentine law to arrest or detain civilians without having promptly to account to their families, grant access to their attorneys and respond immediately and fully to writs or orders of civilian courts such as the writ of amparo or habeas corpus and (2) does not in fact arrest or detain such persons in such fashion and (3) does not have authority in law or facility in practice to try civilians while the civilian courts in Argentina remain open and functioning for most purposes. However, if the service has the authority stated, applicants may also qualify items for export by showing that the service which will use that item, while having and exercising that authority, does so only in strictest conformity to all the relevant safeguards spelled out in the Universal Declaration of Human Rights and the third and fourth Geneva Conventions of 1949 (for which latter purpose the standards relevant are those prescribed with respect to prisoners of war and protected civilian persons.)

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